

DISTRICT OFFICE	DOCKET NUMBER	FILING DATE MO. DAY YEAR	J	N/S	O	R	h 23	DEMAND OTHER	JUDGE NUMBER	JURY DEM.	DOCKET NUMBER
1085/4	75	0121 04 03 75	4 X	190	2	12			8509		75 0121-b

PLAINTIFFS

James R. (Jim) LEWIS

DEFENDANTS

FAIRMONT FOODS COMPANY, a corporation

CAUSE

This action was brought for alleged damages resulting from the alleged breach of a Contract between the parties.

ATTORNEYS

Elmore Page
P. O. Box 5187
Galveston, Texas 77550
713 737-1623

Paul R. Hodgson
4813 S. Harvard
Tulsa, Okla. 74135
749-2533

Lantz McClain
502 South Oklahoma
Sapulpa, OK 74066

Joseph A. McCormick
Hall & Sublett
~~905 Natl. Bank of Tulsa Bldg.~~
Tulsa, Oklahoma 74103
918 582-8815

*Suite 1776
One Williams Center*

☐ CHECK HERE
IF CASE WAS
FILED IN
FORMA
PAUPERIS

FILING FEES PAID

DATE

RECEIPT NUMBER

C.D. NUMBER

STATISTICAL CARDS

CARD DATE MAILED

JS-5 5-1-75

JS-6 12-1-78

DATE	NR.	PROCEEDINGS
4-3-75	1.	PETITION FOR REMOVAL, filed w/copy of complaint.jj
4-3-75	2.	BOND on Removal in the amt. of \$500.00 cash, filed.jj
4-3-75	3.	NOTICE of Filing of Petition and Bond for Removal by Deft., filed.jj
4-3-75	4.	ACKNOWLEDGMENT of Clk of Dist. Ct. of Creek Cty., Okla., of receipt of copy of the Notice, Petition and Bond for Removal, filed,jj
4-21-75	5.	Motion for Enlargement of Time, filed. mm
4-21-75	6.	Order Enlarging Time Within Which Deft. May Answer, filed.(Granted JCS-) mm cps mld per JAMc
5-6-75	7.	Motion for enlargement of time, to file answer, filed. hm <i>O to J</i>
5-9-75	8.	Order, filed, granting deft. addl. 14 days from 5-6-75 to answer. (AEB-J)g cpies mailed
5-20-75	9.	<u>ANSWER</u> of def., filed. rm
6-25-75	MO	Parties are directed to hold PT conf. on or before 8-6-75 & file PT Order on or before 8-13-75. (AEB-J)k cps by cert mail
7-25-75	10	Pltf's request for admissions and interrog., filed.k
7-30-75	11	Joint appl. for time til 2-15-76 to file PT Order, filed.k <i>O to J</i>
8-1-75	12	Order allowing parties until <u>November 13, 1975</u> to conduct a pre-trial conference, prepare & file the pre-trial order, filed.(AEB-J)b cps mld
8-27-75	13.	Motion for Extension of Time within which to Respond to Request for Admissions of the Truth of Facts and Genuineness of Documents and Interrogatories, filed. mm (O to J)
9-3-75	14.	Order, filed, granting Deft. until 9-6-75 to respond to request for admissions. (AEB-J)v -cps. mld.
9-5-75	15.	Deft.'s response to request for admissions of the truth of facts & genuineness of documents and interrogatories, filed. v
11-3-75	16.	1st set of Interrogatories to the Pltf., filed.jj
11-6	17.	Joint Appl. for Addl. Time to Prepare PT Order until 2-15-76, filed. jj O to J
11-10	18.	Order, filed, granting parties until 2-15-76 to hold pretrial and file pretrial order. (AEB-J)g cpies mailed
12-4	19.	Responses to First Set of Interrogs. to Pltf., filed. lm
2-12-76	20.	Joint appl. for additional time to prepare PT order, filed. ph <i>O to J</i>
2-17	21	Order, filed, granting parties until 5-1-76 to hold pretrial and file pretrial order. (AEB-J)g cp mld.
3-23	22.	Pltf's second set of interrogs. to deft, filed. ph
5-17	23	Pre-Trial Order,filed.t cpy to all atty's.
5-25	MO	Case set for N/J trial on 6-21-76, at 10:00 A.M.(AEB-J)b nts mld w/ affid.
6-7	24.	Pltf's appl. to strike trial setting & reset on 10-76 docket, filed.k

CONTINUED

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>75-C-121</u> PAGE <u>3</u> OF <u>2</u> PAGES <u>sheets</u>
James R. Lewis		Fairmont Foods Co.	
DATE	NR.	PROCEEDINGS	
1976			
6-8	25.	Order, filed, striking case from 6-21-76 non-jury docket, to be set on 10-76 non-jury docket. (AEB-J)k cps mld	
9-21	MO:	Case set for N/J Trial on 10-26-76 at 10:00 a.m. (AEB-J)v -notices mld. cert.	
10-1	26.	Application of withdrawal as counsel of Elmore A. Page and Paul R. Hodgson, attys for Pltf., filed.s 0 to J	
10-13	27.	Pltf's application to strike case from 10-26-76 non-jury docket, filed.s 0 to J	
10-14	MO	Case continued from non-jury docket of 10-26-76 to be reset on Nov. non-jury docket.s (AEB-J) notices by phone	
10-18	28.	Affi. of Elmore A. Page re wd as atty of record, filed. lm	
10-21	29.	Order, filed, that application of Elmore A. Page and Paul R. Hodgson to withdraw as atty. for pltf. is granted; further that pltf. secure new counsel to represent him within 20 days and said counsel enter an appearance of record in this cause.s (AEB-J) cps. mld.	
11-16	30.	Entry of appearance of Lantz McClain as atty for pltf., filed.k	
12-6	MO:	Case set for non-jury trial on 1-17-77, at 10:00 A.M.(AEB-J)b nts by cert mld w/affid.	
12-28	--	Cert. notice of non-jury trial setting mld. to Lantz McClain was returned this date. (McClain was notified twice to claim notice.) Notice mld. this date, not certified. v	
1977			
1-12	31.	Pltf's mot. for continuance, filed. lm	
1-14	32.	Order, fld., that this matter is continued. (AEB-J)v -cps. mld.	
2-25	MO	Case set for non-jury trial on 3-21-77 at 10:00 a.m. (AEB-J)k ntc by cert ml w/ affid.	
3-11	33	Pltf notice of taking deposition. fld. subpoena duces tecum issued. ho	
3-14		Sub. ret.& filed; served Mike Burton 3-14-77. (USM \$4.64)g	
3-15	34	Deft. answers to interrog. fld. ho	
3-15	35	Mot of deft, Fairmont Foods Co., for partial S/J. fld. ho	
3-15	36	Brief of Deft, Fairmont Foods Co., in supp of mot for partial S/J. fld. ho	
3-15	37	Deft. appl to strike case from docket. fld. 0 to J. ho	
3-16	MO	It is ordered by the Ct that pltf file a responsive brief w/in 10 days to deft. mot for partial S/J. (AEB-J) cps mld. ho	
3-16	38	Order, filed, striking case from 3-21-77 trial docket. (AEB-J)k mld	
3-22	39	Pltf's notice to take deposition of Mike Burton 4-11-77, at Tulsa, OK, filed.k	
3-28	40	Brief of Pltf. in response to Deft. mot. for partial S/J. fld. ho	
3-29		Ret. of USM service of Subpoena Duces Tecum served Mike Burton on 3-24-77 in Tulsa. (USM \$4.40) ho	
5-11	MO:	Case referred to Magistrate Robert S. Rizley for Findings and Recommendations on all motions. (AEB-J) njb	

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. _____
			PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS	
5-27	MO	Case set for hearing of Defts. mot. for partial S/J befor Mag. on 6-10-77 at 9:30 A.M. (RSR-MAG) not. mld. ho	
6-10	Min	Hrg. on deft's mot. for partial S/J passed, to be reset by the Mag. (RSR-Mag)k	
6-23	MO	Case set for hrg. on deft's mot. for partial S/J before Mag. on 7-8-77 at 10:00 a.m. (RSR-Mag)k ntc by KT	
7-8	Min	Case called for hrg. on deft's mot. for partial S/J. Parties represented. Motion taken under advisement. Mag. to prepare F&R. (RSR-Mag)k	
8-11		Depo. of Michael Blaker Burton taken before Margaret Jennings, CSR on behalf of Pltf. w/fees of \$13.00 paid by Pltf. fld. ho	
8-18	MO	It is recommended by the Mag. that deft's mot. for S/J be overruled and pltf. counsel is ordered to prepare F&R w/in 10 days. (RSR-Mag)k	
9-7	MO	Pltf. is granted 30 days to submit F&R of Mag. (RSR-Mag)k cps by KT	
11-3	MO	Pursuant to the agreement of parties and in compliance with Order M-128 and Rule 53 of the Rules of Civil Procedure, it is ordered that this non-jury case be referred to Robert Rizley, U. S. Magistrate, for trial and written report, including findings of fact and conclusions of law. (AEB-J)k cps mld	
11-7	41.	Pltf's atty's notice of attornet's lien, filed. lm	
11-17	42.	Findings & Recommendations of the Mag., filed. Mag. recommends that deft's mot. for partial S/J be overruled. (RSR-Mag)k cps mld	
11-17	MO:	Case set for pre-trial before Mag. Rizley on 11-28-77, at 11:30 A.M. (RSR-Mag) b nts by KT	
11-28	Min	Case called for pre-trial hrg. before the Mag. Parties represented. Mag. sets case for non-jury trial on 1-24-78 at 10:00 a.m. (RSR-Mag)k	
11-30	MO	Case set for non-jury trial on 1-24-78 at 10:00 a.m. (RSR-Mag)k ntc mld	
12-6 1978	43.	Order, filed, that deft's mot. for partial summary judgment is overruled. (AEB-J)k cps mld	
1-13	44	Pltf. not. of Witnesses. fld. ho	
1-13	45	Deft. witness list. fld. ho	
1-13	46	Pltf's notice of witnesses, filed.k	
1-13	47	Pltf's notice of exhibits, filed.k	
1-23		Subs., ret. & filed: served Martin Smith, Boynton, Ok. 1-18-78; Lester Cordell, Tulsa 1-19-78; returned unexecuted as to Herbert Simpson at req. of Atty. Lance McClain. (USM \$11.92)g	
1-23	48	Deft. mot. for continuance. fld. ho 0 to J.	
1-25	49	Order, filed, granting deft's mot. for continuance of non-jury trial. Case passed to 2-15-78 at 9:30 a.m. (RSR-Mag)k cps mld to movant	
1-25	MO	Non-jury trial set before the Mag. on 1-24-78 at 10:00 a.m. is stricken and reset on 2-15-78 at 9:30 a.m. (RSR-Mag)k ntc by KT	
1-27	50	Deft. not. of taking depo. of Lester Cordell & Herbert Simpson on 2-2-78 in Tulsa, OK. fld. ho sub. issued.	
1-27	51	Deft. not. to take depo. of Jerome Warren on 2-2-78 in Tulsa, OK. fld. ho sub. issued.	

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. 75-C-121-B Sheet 3, Page 5 PAGE XXXXX OF XXXXX PAGES
LEWIS, James R. (Jim)		FAIRMONT FOODS COMPANY	
DATE	NR.	PROCEEDINGS	
1978			
2-2		Ret. of service of Civil sub., fld. served Herbert Simpson on 1-28-78 in Tulsa, OK; Lester Cordell on 2-1-78 in Tulsa, OK; & Jerome Warren on 1-28-78 in Tulsa, Ok all served by Craig W. Leonard. ho	
2-2	52	Defts. appl. for citation of contempt, re:Lester Cordell, fld. ho	
2-2	53	Order, fld. That Lester Cordell should appear before this Ct. at 9:30 a.m. on 2-6-78 to show cause why you should not be held in contempt of Ct. (RSR-Mag.) cps to marshal by atty. ho	
2-3	54.	Suppl. Witness Listand Notice of Exhibits, fld. by Deft. v	
2-6	55.	Notice of Additional Witnesses, fld. by Pltf. v	
2-7		USM service of Ord. to show cause, ret. & filed: served Lester Cordell on 2-3-78. (USM \$8.88)g	
2-10		Depos. of Herbert Floyd Simpson & Jerome Warren taken on behalf of the Deft. on 2-2-78 in Tulsa, OK before Evelyn E. Rutherford, CSR. w/fees of \$127.50 pd. by Deft. fld. ho	
2-15	--	Return on service of civil subpoena, filed. Served Henry Barber on 2-9-78, at Tulsa, OK.k	
2-16		Ret. of USM service of civil sub., fld. Unserved Lester Cordell. Served Herbert Simpson on 2-13-78 in Tulsa, OK. (USM \$3.92) ho	
2-22		Case called for non-jury trial before Mag. Rizley. Parties pres. & announce ready. Case tried on 2-15, 2-16, 2-17 & 2-22-78. Pltf. makes opening statement & presents case in chief; witnesses sworn & testify. Pltf's exhibits admitted. Pltf. rests. Deft's motion for dismissal under R. 12, denied. Deft. presents case in chief; witnesses sworn & testify. Pltf's motion to strike testimony of Deft. witness Linebarger overruled. Ct. overrules Deft's request to w/draw exhibits 3 & 4. Deft. rests. Pltf. presents rebuttal evidence, w/test. of witness. Parties rest. Parties to submit FF/CL, w/brief, within 10 days after receipt of reporter's transcript in case. Ct. adjourned.(RSR-Mag) b	
2-22		Pltf's exhibits 1,2,5 & 6, filed in case. b	
2-22		Deft's exhibits 1,2,3,4,5 & 6, filed in case. b	
3-23		Reporters transcript of non-jury trial had on 2-15-78 before Mag. Rizley. (LJM-CSR)ho fld. 43 pages	
3-23		Reporters transcript of continuation of non-jury trial had on 2-22-78 before Mag. Rizley. (LJM-CSR)fld. ho 16 Pages.	
4-3		Reporters transcript of non-jury tuial had on 2-16, 17, & 22, 1978 before Mag. Rizley, fld. (LW-LSR)ho 170 pgs.	
4-3		Reporters transcript of non-jury trial had on 2-17-78 vol. II, before Mag. Rizley, fld. (LW-LSR)ho 219 pgs.	
4-3		Reporters transcript of non-jury trial had on 2-22-78 vol. III, before Mag. Rizley, fld. (LW-LSR)ho 107 pgs.	
4-13	MO	Parties are granted an additional 10 days to submit F/F and C/L with briefs. (RSR-Mag)k cps by KT	
4-24	56	Brief in support of deft's proposed F&R of the Mag., filed.k	
4-27	57	Pltf. brief, fld. ho	
6-9	MO	Case set for oral argument and decision before the Mag. on 6-23-78 at 10:00 a.m. (RSR-Mag)k ntc by KT	
6-23	MO	Upon request of deft. & w/ concurrence by pltf., oral argument & decision before the Mag. set for 10:00 a.m. is stricken. (RSR-Mag)k	

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. _____
			PAGE ____ OF ____ PAGES
DATE 1978	NR.	PROCEEDINGS	
7-20-8-7	MO; Min.	Case set for oral argument & decision on 8-7-78, at 4:15 P.M. (RSR-Mag) b nts by KT Case called for oral argument & decision. Parties present. Mag. recommends Judgment for defendant. Mag. to prepare Findings of Fact & Conclusions of Law and recommendations. (RSR-Mag)b	
9-13	58	Findings of Fact & Conclusions of Law and Recommendation of the Mag., filed. Mag. recommends that judgment be entered for the deft. & against the pltf. and that deft. recover its costs. (RSR-Mag)k cps mld	
9-25	59	Pltf. objections to F/F & C/L & recommendations of Mag. fld. ho	
9-25	60	Pltf. appl. for ext. of time to file brief in supp. of obj. fld. ho 0 to J.	
9-27	61	Order, filed, granting pltf. 15 days to file his brief in support of objections to F/F, C/L & Recommendation of the Mag. (AEB-J)k cps mld to movant	
10-10	62	Appl. of Lantz McClain to w/draw as pltf. counsel, filed.k	
10-18	63	Affid. of Lantz McClain in supp. of appl. to w/draw as atty. for Pltf. fld. ho 0 to J.	
10-20	64	Order, filed, allowing Pltf. counsel to withdraw & that Pltf. is given 10 days from this date to obtain new counsel & have said counsel make an appearance of record, or the case will be dismissed for failure to prosecute. (AEB-J)b cps mld	
11-30-78	65.	Order, filed, that the Objections of Pltf. to Findings of Fact, Concl. of Law & REcommendations of Mag. be & are hereby overruled. IT IS FURTHER ORDERED that Fdgs. & Fact & Concl. of Law & Recommend. of Mag. be & same are hereby adopted & affirmed & Judgment should be entered in favor of deft., Fairmont Foods Co. & against Pltf. James R. Lewis. (AEB-J)b cps mld	
11-30-78	66.	Judgment, filed & entered, in favor of the Deft. Fairmont Foods & against the Pltf., James R. Lewis. (AEB-J)b cps mld	
12-8	67	Deft. Fairmont Foods bill of costs, fld. hrg. set for 12-18-78 at 10:00 a.m. ho	
12-18	--	Costs taxed in the amt. of \$2,161.86 in favor of Deft. fld. (JCS-Clk)ho	
1979			
5-7	--	Exeuction issued, ho	
6/5	--	RETURN ON EXECUTION. Unable to serve Jms. Lewis. Fees: \$11.44. v	
1980			
2-6	--	EXECUTION ISSUED.ho	
3-20		USM RETURN: Execution NOT SERVED. g	
7-1	--	EXECUTION ISSUED.mm	
8-8	--	RETURN ON EXECUTIONS. Served 24 Icee Machines on 8-6-80; served 7 Icee Machines on 8-6-80 (Both at Tulsa, OK) (Fee:\$9)lm	
4-19-82	68	APPLICATION to w/draw Bond on Appeal.(0 to J)jc	
4-21	69	ORDER directing Clerk to disburse \$500 to deft.(HDC-J)rm	
4-28	70	APPLIC of defts to exonerate writ of execution.(0 to J)a	
4-29	71	ORDER exonerating Writ of Exec.issued 8-6-80.(HDC-J)jc (c/deft)	